



DEPARTMENT OF PERSONNEL
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MEMORANDUM
PERD # 18/09

TO: Designees for Rules Distribution

FROM: Teresa J. Thienhaus, Director
Department of Personnel

DATE: April 14, 2009

SUBJECT: Revision #6, Rules for State Personnel Administration

A handwritten signature in cursive script, reading "Teresa J. Thienhaus".

Attached is Revision #6 to the *Rules for State Personnel Administration* (NAC Chapter 284). All changes resulted from temporary regulation adopted by the Personnel Commission at the February 27, 2009 meeting. The temporary regulation listed below went into effect on April 6, 2009.

This revision can be added to your rulebook by replacing the existing page with a similarly numbered page. In addition, the complete text of the *Rules for State Personnel Administration* is available on our website at www.dop.nv.gov. Revision 1 – 6 are also available separately on the website for downloading and printing to update an existing hardcopy.

Corrected pages with corresponding section of the rulebook are listed in the chart below:

SECTION	PAGE NOS.
Attendance and Leaves	1-4, 19-28
Separations from Service	5-8
Use of Alcohol and Drugs	1-4

Please insure everyone on your distribution list receives a copy. If you have any questions regarding this information, please contact Mark Evans at (775) 684-0149 or mevans@dop.nv.gov.

Thank you for your assistance.

Attachment

TJT:sb/vk

cc: Department Directors
Division Administrators
Agency Personnel Liaisons
Agency Personnel Representatives

ATTENDANCE AND LEAVES

NAC 284.523 Definitions. (NRS 284.065, 284.155, 284.345) As used in NAC 284.523 to 284.598, inclusive, unless the context otherwise requires, the words and terms defined in NAC 284.5231 to 284.5239, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R082-00, 8-2-2000)

NAC 284.5231 "Care" defined. (NRS 284.065, 284.155, 284.345) "Care" means the activities performed or attention provided when an employee:

1. Provides psychological comfort and reassurance to his spouse, child or parent with a serious health condition who is receiving inpatient or home care;
2. Substitutes for another person who is caring for the employee's spouse, child or parent who has a serious health condition;
3. Makes arrangements for any change in the care of his spouse, child or parent with a serious health condition; or
4. Provides physical or psychological care to his spouse, child, parent or other member of his immediate family who is unable to provide for his own:
 - (a) Basic medical, hygienic or nutritional needs;
 - (b) Safety; or
 - (c) Transportation to a provider of health care.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.52315 "Child" defined. (NRS 284.065, 284.155, 284.345) "Child" means a person who is:

1. A biological, adopted or foster child, a stepchild, a legal ward or the child of a person with the daily responsibility of caring for and financially supporting that child; and
2. Except as otherwise provided in NAC 284.5235 and 284.562, under 18 years of age or is 18 years of age or older and incapable of caring for himself because of a mental or physical disability.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.5232 "Continuing treatment" defined. (NRS 284.065, 284.155, 284.345) [~~"Continuing treatment" means:~~

- ~~—1. Two or more treatments received from a provider of health care if the treatment normally requires a visit to the office of the provider of health care or a nurse or physician assistant who is under the direct supervision of the provider of health care;~~
- ~~—2. Two or more treatments received from a provider of health care services, such as a physical therapist, under the orders of, or referred by, a provider of health care;~~
- ~~—3. At least one treatment received from a provider of health care which results in a regimen of continuing treatment under the supervision of a provider of health care;~~
- ~~—4. The continuing supervision of, but not necessarily active treatment by, a provider of health care because of a long term or permanent condition for which treatment may not be effective; or~~
- ~~—5. Any combination of treatments described in subsections 1 to 4, inclusive.]~~

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95)

NAC 284.5233 "Eligible employee" defined. (NRS 284.065, 284.155, 284.345) [~~"Eligible employee" means an employee who is eligible for family and medical leave.~~

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A by R082-00, 8-2-2000)

Temporary Repeal

NAC 284.5234 “Family and medical leave” defined. (NRS 284.065, 284.155, 284.345)
~~["Family and medical leave" means any paid leave or leave of absence without pay which is granted to an eligible employee:~~

- ~~—1. For the birth of a child of the employee and the care of that child if the leave is taken during the 12 months immediately following the date of the birth of that child;~~
- ~~—2. For the placement of a child through adoption or foster care with the employee if the leave is taken during the 12 months immediately following the date of placement of that child;~~
- ~~—3. To care for his spouse, child or parent who has a serious health condition; or~~
- ~~—4. Because of a serious health condition of the employee which makes him unable to perform one or more of the essential functions of his position.]~~

(Added to NAC by Dep’t of Personnel, eff. 3-23-94; A 11-16-95)

NAC 284.52345 “Family and Medical Leave Act” defined. (NRS 284.065, 284.155, 284.345) “Family and Medical Leave Act” means the Family and Medical Leave Act of 1993 adopted by reference in NAC 284.581.

(Added to NAC by Dep’t of Personnel by R082-00, eff. 8-2-2000)

NAC 284.5235 “Immediate family” defined. (NRS 284.065, 284.155, 284.345)
 “Immediate family” means:

1. The employee’s parents, spouse, children, regardless of age, brothers, sisters, grandparents, great-grandparents, uncles, aunts, nephews, grandchildren, nieces, great-grandchildren and stepparents; and
2. If they are living in the employee’s household, the employee’s father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather-in-law, grandmother-in-law, great-grandfather-in-law, great-grandmother-in-law, uncle-in-law, aunt-in-law, brother-in-law, sister-in-law, grandson-in-law, granddaughter-in-law, nephew-in-law, niece-in-law, great-grandson-in-law and great-granddaughter-in-law.

3. Next of kin as provided for by the Family and Medical Leave Act when an employee is approved for family and medical leave to care for a covered servicemember.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94)

NAC 284.5237 “Parent” defined. (NRS 284.065, 284.155, 284.345) “Parent” means the biological parent of an employee or the person who had the daily responsibility of caring for and financially supporting the employee when the employee was a child. The term does not include a parent of the spouse of an employee.

(Added to NAC by Dep’t of Personnel, eff. 3-23-94)

NAC 284.52375 “Provider of health care” defined. (NRS 284.065, 284.155, 284.345)
 “Provider of health care” means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state or country in which the doctor practices.
2. A podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor who is authorized to practice as a podiatric physician, a dentist, a clinical psychologist, an optometrist or a chiropractor by the state or country in which he practices and who is performing within the scope of his practice as defined by the law of that state or country.
3. A nurse practitioner, nurse midwife or clinical social worker who is authorized to practice as a nurse practitioner, nurse midwife or clinical social worker by the state or country in which he practices and who is performing within the scope of his practice as defined by the law of that state or country.
4. A practitioner in Christian Science who is listed with The First Church of Christ, Scientist, in Boston, Massachusetts. The list of practitioners may be obtained from the Christian Science Committee on Publication for Nevada, P.O. Box 92752, Henderson, Nevada 89009, 702.566.1097, at a cost of \$3.50.

5. A provider of health care, as defined in NRS 629.031, acting within the scope of his license whose certification of the existence of a serious health condition is acceptable to substantiate a claim for benefits under the Public Employees' Benefits Program.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000)

INFORMATIONAL NOTE: See also 29 C.F.R. §825.114 for explanation of "serious health condition" entitling an employee to FMLA leave.

NAC 284.5239 "Serious health condition" defined. (NRS 284.065, 284.155, 284.345)

~~[1. "Serious health condition" means an illness, an injury, or a physical or mental condition which involves:~~

~~—(a) Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or~~

~~—(b) Continuing treatment by or under the supervision of a provider of health care for one or more periods of:~~

~~—(1) Incapacity of more than 3 consecutive calendar days, and any subsequent treatment or period of incapacity related to the same condition that also involves continuing treatment.~~

~~—(2) Incapacity because of pregnancy or for prenatal care.~~

~~—(3) Incapacity because of a chronic serious health condition, or treatment for such incapacity. A chronic serious health condition is one that continues over an extended period of time, requires periodic visits for treatment by or under the direct supervision of a health care provider, and which may cause episodic periods of incapacity.~~

~~—(4) Incapacity which is permanent or long term because of a condition for which treatment may not be effective, but for which the person is under the continuing supervision of a health care provider.~~

~~—(5) Absence to receive multiple treatments by or under the direction of a health care provider for restorative surgery after an accident or other injury.~~

~~—(6) Absence to receive multiple treatments by or under the direction of a health care provider for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days in the absence of medical intervention or treatment.~~

~~2. The term "serious health condition" does not include:~~

~~—(a) Cosmetic treatments which do not require inpatient care and which do not result in medical complications; or~~

~~—(b) Minor conditions such as the common cold, flu or an earache which do not result in medical complications.~~

~~3. As used in this section, "incapacity" means the inability to work, attend school or perform other regular daily activities because of a serious health condition, including any treatment or recovery period.]~~

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95)

INFORMATIONAL NOTE: NRS 281.100 "Hours of service of employees of state and political subdivision; exceptions; penalty." may be found preceding NAC 284.242.

NRS 281.110 states, "State offices to maintain 40-hour workweeks and remain open during certain hours; exception; variable schedules for workweek.

1. Unless required for the efficient transaction of business and the convenience of the persons with whom business is transacted, the offices of all state officers, departments, boards, commissions and agencies must:

(a) Maintain not less than a 40-hour workweek.

(b) Be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. every day of the year, with the exception of Saturdays, Sundays and legal

Temporary Repeal

holidays.

2. Variable workweek scheduling may be required in those agencies where coverage is needed on Saturdays, Sundays and legal holidays or on other days or during other hours, as necessary.

3. The offices of all state officers, departments, boards, commissions and agencies that are open on the days and during the hours set forth in paragraph (b) of subsection 1 must remain open during the noon hour of each regular working day if any such office has more than one person on its staff."

NRS 284.180 (innovative workweeks) states in part,

"8. An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected employees. The affected employees are eligible for overtime only after working 40 hours in a workweek."

NAC 284.524 Reporting for work; workweeks and workdays; periods for meals and rest. (NRS 284.065, 284.155, 284.345)

1. An employee shall report for a work shift on time and ready to perform the duties and tasks assigned to his position.

2. Except as otherwise provided in this subsection, the workweek for state employees is 40 hours. A workweek of a different number of hours may be established to meet the needs of state agencies in compliance with the provisions of NRS 281.100, 281.110 and 284.180. The workday for a full-time state employee who works a standard or nonstandard work schedule consists of two work periods separated by a 1/2- to 1-hour meal period. Insofar as practicable, the meal period must occur in the middle of the work shift. A rest period of 15 minutes must be granted for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

3. Except as otherwise provided in subsections 4 and 5, an appointing authority shall provide a meal period and rest period to an employee who has an innovative work schedule during each workday as follows:

(a) A 1/2- to 1-hour meal period must be provided during each period of work that exceeds 6 hours. Insofar as practicable, the meal period must occur in the middle of the work shift.

(b) A rest period of 15 minutes must be provided for each 4-hour period of work and, insofar as practicable, must occur in the middle of the period of work.

4. The requirement to relieve an employee for a 1/2- to 1-hour meal period does not apply to an employee who receives a paid meal period.

5. The requirement for a rest period does not apply to an employee who works:

(a) Directly with the inmates at a correctional institution.

(b) For the Division of Mental Health and Developmental Services of the Department of Health and Human Services and who:

(1) Maintains or monitors the equipment in a heat plant which operates 24 hours a day; and

(2) Works a straight 8-hour work shift.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 4-20-90; 8-1-91; 11-12-93; R031-98, 4-17-98; R098-99, 9-27-99; A by Personnel Comm'n by R068-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.525 Reduction of hours by mutual agreement. (NRS 284.065, 284.155, 284.345) Except with respect to a leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580, an appointing authority and an employee may reduce the employee's working hours to less than full-time by mutual agreement.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.577 Catastrophic leave: Repayment for hours used; receipt of workers' compensation benefits. (NRS 284.065, 284.155, 284.175, 284.345, 284.3626)

1. Except as otherwise provided in subsection 2, an employee who has used hours from an account for catastrophic leave may voluntarily repay the account for those hours.

2. An employee who is entitled to catastrophic leave and workers' compensation benefits may not receive more than 100 percent of his pay for the period of his leave. An employee must repay the account for catastrophic leave when the combined benefit of catastrophic leave and workers' compensation exceeds his normal rate of pay.

3. The amount required to repay the hours from an account for catastrophic leave must be based on the employee's normal rate of pay at the time he used the hours.

(Added to NAC by Dep't of Personnel, eff. 11-16-95; A by Personnel Comm'n by R069-02, 8-14-2002)

NRS 284.360 states in part, "Leave of absence without pay.

1. Any person holding a permanent position in the classified service may be granted a leave of absence without pay. Leave of absence may be granted to any person holding a position in the classified service to permit acceptance of an appointive position in the unclassified service. Leave of absence must be granted to any person holding a position in the classified service to permit acceptance of a position in the Legislative Branch during a regular or special session of the Legislature, including a reasonable period before and after the session if the entire period of employment in the Legislative Branch is continuous.

2. If a person is granted a leave of absence without pay to permit acceptance of an appointive position in the unclassified service or a position in the Legislative Branch, any benefits earned while he is in the:

(a) Classified service are retained and must be paid by the employer in the classified service, whether or not the person returns to the classified service.

(b) Unclassified service or employed by the Legislative Branch are retained and must be paid by the appointing authority in the unclassified service or by the Legislative Branch, if he does not return to the classified service, or by the employer in the classified service, if he returns to the classified service.

3. Any person in the unclassified service, except members of the academic staff of the Nevada System of Higher Education, may be granted by the appointing authority a leave of absence without pay for a period not to exceed 6 months.

4. Officers and members of the faculty of the Nevada System of Higher Education may be granted leaves of absence without pay as provided by the regulations prescribed pursuant to subsection 2 of NRS 284.345.

5. Except as otherwise provided in subsection 6, a person in the classified or unclassified service who:

(a) Is the natural parent of a child who is less than 6 months old; or

(b) Has recently adopted a child,

must be granted, upon request, a leave of absence without pay for a period not to exceed 12 weeks. Such a request by natural parents must be submitted at least 3 months before the date upon which the requested leave will begin, unless a shorter notice is approved by the employer. Such a request by adoptive parents must be submitted not fewer than 2 working days after the parents receive notice of the approval of the adoption. This subsection does not affect the rights of an employee set forth in NRS 284.350 or 284.355.

6. The provisions of subsection 5 are effective only if the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq., or a subsequent federal law ceases to provide for a parental leave of absence of at least 12 weeks."

NAC 284.5775 Temporary total disability: Use of sick leave, compensatory time, annual leave and catastrophic leave; leave of absence without pay. (NRS 284.065, 284.155,

284.345, 284.350, 284.355, 284.3626) An employee who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may:

1. Elect to receive payment for all or part of the difference between his normal pay and the benefits received by:
 - (a) Using his accrued sick leave as provided in subsection 1 or 3 of NRS 281.390;
 - (b) Using his accrued compensatory time;
 - (c) Using his accrued annual leave if he:
 - (1) Is on family and medical leave for a serious health condition that prevents him from performing one or more of the essential functions of his position; or
 - (2) Elected to use his accrued sick leave pursuant to NRS 281.390 and has exhausted all of his accrued sick leave; or
 - (d) Using catastrophic leave if he has exhausted all of his accrued annual leave, sick leave and compensatory time and his request for catastrophic leave has been approved pursuant to NAC 284.576; or

2. Elect to be placed on leave of absence without pay in accordance with subsection 5 of NRS 281.390.

(Added to NAC by Dep't of Personnel by R031-98, eff. 4-17-98; A by R082-00, 8-2-2000)

NAC 284.5777 Temporary total disability: Workers' compensation travel leave to receive medical treatment (NRS 284.065, 284.155, 284.175, 284.345)

1. An appointing authority shall grant leave to an employee in the classified or unclassified service of the State to receive medical treatment for a work-related injury or occupational disease if the employee:

- (a) Qualified for benefits for a temporary total disability pursuant to NRS 616C.475; and
 - (b) After returning to work, is required to travel more than 50 miles one way from his place of employment to receive such medical treatment.

2. An appointing authority shall pay an employee who is granted leave pursuant to subsection 1:

- (a) If he is a nonexempt employee, his regular hourly rate of pay for each hour that he is absent from his place of employment for such leave.

- (b) If he is an exempt classified employee or an exempt unclassified employee and he is absent from his place of employment for a full day for such leave, his regular rate of pay for each such day.

3. Leave granted pursuant to this section must be taken as workers' compensation travel leave and must not be deducted from any sick leave, annual leave, compensatory leave or any other personal leave that may be available to the employee.

(Added to NAC by Personnel Comm'n by R221-05, eff. 2-23-2006)

NAC 284.578 Leave of absence without pay. (NRS 284.065, 284.155, 284.345)

1. Except as otherwise provided in NRS 284.360, an appointing authority may grant a leave of absence without pay to an employee for not more than 1 year for any satisfactory reason.

2. The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.

3. An appointing authority may require an employee on leave of absence without pay to submit every 2 weeks a statement of his intent to return to work.

4. If the reason for granting the leave no longer exists, the appointing authority may revoke the leave after notifying the employee in writing and allowing, so far as is practicable, not less than 5 working days after the date of notification for the employee to return to work.

5. An employee shall request leave without pay at least 30 days in advance of when the need for the leave is foreseeable, if practicable.

6. An employee may not use leave without pay in lieu of sick leave or annual leave without approval of the appointing authority.

7. An employee who is using leave pursuant to the Family and Medical Leave Act may not use leave without pay until he has exhausted his accrued sick leave, *compensatory time*, annual leave and catastrophic leave as required by NAC 284.5811.

[Personnel Div., Rule VII § E subsecs. 1-4, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 3-23-94; 10-27-97; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.580 Leave of absence without pay during fiscal emergency of State or agency. (NRS 284.065, 284.155, 284.175, 284.345, 284.360)

1. Upon the request of an appointing authority, the Department of Administration may authorize the appointing authority to place a nonexempt employee on a leave of absence without pay for a fiscal emergency of the State or an agency during any period for which the Governor has declared that the State or an agency will experience a shortfall in revenue or for any other reason is in a state of fiscal emergency.

2. All employees in the same classification must be treated equitably with respect to being placed on a leave of absence without pay pursuant to this section unless an employee volunteers to be placed on such a leave of absence.

3. The appointing authority shall reduce the pay of an employee who is placed on a leave of absence without pay pursuant to subsection 1 by an amount equal to the pay that the employee would otherwise receive for the hours for which the leave is approved.

4. The hours for which payment is withheld pursuant to subsection 3:

(a) Must be treated as hours in paid status for the purposes of NAC 284.182, 284.255, 284.282, 284.448, 284.538, 284.5385, 284.544 and 284.614.

(b) Must not be considered as time worked in calculating overtime.

5. Regardless of whether an employee volunteers to be placed on a leave of absence pursuant to subsection 1, after notifying the employee in writing and allowing a reasonable period for the employee to return to work, an appointing authority:

(a) Shall revoke the placement of any employee on a leave of absence without pay pursuant to subsection 1 upon a declaration by the Governor that the fiscal emergency no longer exists.

(b) May revoke the placement of any employee on any leave of absence without pay pursuant to subsection 1 for any other bona fide reason.

(Added to NAC by Dep't of Personnel, eff. 9-16-92; A 11-12-93; 3-23-94; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.581 Adoption by reference of federal law and regulations. (NRS 284.065, 284.155, 284.345)

1. For the purposes of NAC 284.523 to 284.598, inclusive, the Department of Personnel hereby adopts by reference:

(a) The Family and Medical Leave Act of 1993 (Public Law 103-3), as amended.

(b) The Fair Labor Standards Act of 1938, as amended, and 29 C.F.R. Part 541.

2. A copy of the Family and Medical Leave Act, the Fair Labor Standards Act or 29 C.F.R. Part 541 may be obtained at no charge from the United States Government, Wage and Hour Division, P.O. Box 3136, Reno, Nevada 89505-3136, telephone (775) 784.5200, or from the United States Government, Wage and Hour Division, 1050 Flamingo Road, Suite 321, Las Vegas, Nevada 89119, telephone (702) 699-5581.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000)

NAC 284.5811 Family and medical leave: Maximum amount in 12-month period; eligibility; use. (NRS 284.065, 284.155, 284.345, 284.350, 284.355, 284.3626)

1. *Except as provided in subsection 2*, an employee who is entitled to take leave pursuant to the Family and Medical Leave Act is limited to a total of 12 weeks of such leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date an employee uses any leave pursuant to the Family and Medical Leave Act.

2. An employee who is entitled to take leave to care for a covered servicemember may be approved for up to a total of 26 weeks of leave during a single 12-month period as provided for in the Family and Medical Leave Act.

3. To calculate eligibility for leave pursuant to the Family and Medical Leave Act, each hour that an employee is in paid status in the 12-month period immediately preceding the leave must be considered as time worked.

4. Except as otherwise provided in subsection 5, an employee who meets the requirements for eligibility for and who is taking leave pursuant to the Family and Medical Leave Act must exhaust his accrued sick leave, **accrued compensatory time**, accrued annual leave and catastrophic leave before he may use leave without pay. Any accrued sick leave, **accrued compensatory time**, accrued annual leave, catastrophic leave and holiday pay to which the employee is entitled pursuant to NAC 284.255 runs concurrently with the leave granted pursuant to the Family and Medical Leave Act if the employee is otherwise eligible for that sick leave, **accrued compensatory time**, annual leave, catastrophic leave or holiday pay.

5. If an employee is absent from work as the result of a work-related injury or illness and he meets the requirements for eligibility for leave due to a serious health condition pursuant to the Family and Medical Leave Act:

(a) Any amount of time that the employee is absent from work during that period will be designated as leave pursuant to the Family and Medical Leave Act; and

(b) The employee may elect to use paid leave or leave without pay for the portion of time that he is not being compensated for the work-related injury or illness.

6. An appointing authority may require an employee to provide medical documentation **or other appropriate documentation** to support his need for leave pursuant to the Family and Medical Leave Act.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R082-00, 8-2-2000; A by Personnel Comm'n by R096-03, 10-30-2003; R145-05, 12-29-2005)

NAC 284.5813 Family and medical leave: Records. (NRS 284.065, 284.155, 284.345)
Each appointing authority shall maintain accurate records of family and medical leave used by its employees, including any form approved for requesting family and medical leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; 3-1-96; R082-00, 8-2-2000)

NRS 6.190 Terminating or threatening to terminate employment because of jury duty prohibited; civil action for unlawful termination; requiring employee to use sick leave or vacation time or to work certain hours prohibited; notice to employer; dissuasion from service as juror.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment,

is guilty of a gross misdemeanor if of a person who is a juror or who has received a summons to appear for jury duty, and who deprives the juror or person summoned of his employment, as a consequence of his service as a juror or prospective juror, or who asserts to the juror or person summoned that his service as a juror or prospective juror will result in termination of his employment, is guilty of a gross misdemeanor.

2. A person discharged from employment in violation of subsection 1 may commence a civil action against his employer and obtain:

(a) Wages and benefits lost as a result of the violation;

(b) An order of reinstatement without loss of position, seniority or benefits;

(c) Damages equal to the amount of the lost wages and benefits;

(d) Reasonable attorney's fees fixed by the court; and

(e) Punitive or exemplary damages in an amount not to exceed \$50,000.

3. If a person is summoned to appear for jury duty, the employer and any employee, agent

or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror:

(a) Require the person to use sick leave or vacation time; or

(b) Require the person to work:

(1) Within 8 hours before the time at which he is to appear for jury duty; or

(2) If his service has lasted for 4 hours or more on the day of his appearance for jury duty, including his time going to and returning from the place where the court is held, between 5 p.m. on the day of his appearance for jury duty and 3 a.m. the following day.

È Any person who violates the provisions of this subsection is guilty of a misdemeanor.

4. Each summons to appear for jury duty must be accompanied by a notice to the employer of the person summoned. The notice must inform the employer that the person has been summoned for jury duty and must include a copy of the provisions of subsections 1, 2 and 3. The person summoned, if he is employed, shall give the notice to his employer at least 3 days before he is to appear for jury duty.

5. Except as otherwise provided in this section, any person who in any manner dissuades or attempts to dissuade a person who has received a summons to appear for jury duty from serving as a juror is guilty of a misdemeanor.

NRS 50.070 states in part, "Termination or threat of termination of employment because of service as witness prohibited; penalty; remedies.

1. Any person, corporation, partnership, association or other entity who is:

(a) An employer; or

(b) The employee, agent or officer of an employer, vested with the power to terminate or recommend termination of employment, of a person who is a witness or who has received a summons to appear as a witness in a judicial or administrative proceeding, who deprives the witness or person summoned of his employment, as a consequence of his service as a witness or prospective witness, or who asserts to the witness or person summoned that his service as a witness or prospective witness will result in termination of his employment, is guilty of a misdemeanor."

NAC 284.582 Civil leave with pay to serve on jury or as witness. (NRS 284.065, 284.155, 284.175, 284.345)

1. Except as otherwise provided in subsection 2, civil leave with pay must be granted to any employee who is required, during his normal hours of work, to serve:

(a) On a jury; or

(b) As a witness in a court or at an administrative hearing if he is not a party to the action and the action is not related to his job.

↪ The period of the leave must not be deducted from the balance of his annual leave. An employee who is granted the leave must receive his regular pay while on the leave, and he may retain any fee paid to him for his service as a juror or witness.

2. If an employee, in his official capacity as a state employee and as part of his required duties, serves as a witness during his regular working hours, he shall accept any witness fee offered to him and relinquish it to the agency by which he is employed.

3. If an employee is paid travel expenses and subsistence allowances by the court or public agency for which he performs service as a witness, he may retain that payment only if the State has not provided him payment for the same purpose. If the State has provided him such a payment, he shall relinquish it to the agency by which he is employed.

4. ***In accordance with NRS 6.190, an*** agency shall attempt to adjust the working hours of employees who work night shifts and are called as witnesses or for jury duty during the day. If an agency feels this is impractical, in the case of jury duty, it shall petition the court to excuse the juror.

[Personnel Div., Rule VII § E subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 12-13-83, 10-26-84; 5-27-86; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 293.463 states, “Employees may absent themselves from employment to vote: Procedure; penalty.

1. Any registered voter may absent himself from his place of employment at a time to be designated by the employer for a sufficient time to vote, if it is impracticable for him to vote before or after his hours of employment. A sufficient time to vote shall be determined as follows:

(a) If the distance between the place of such voter's employment and the polling place where such person votes is 2 miles or less, 1 hour.

(b) If the distance is more than 2 miles but not more than 10 miles, 2 hours.

(c) If the distance is more than 10 miles, 3 hours.

2. Such voter may not, because of such absence, be discharged, disciplined or penalized, nor shall any deduction be made from his usual salary or wages by reason of such absence.

3. Application for leave of absence to vote shall be made to the employer or person authorized to grant such leave prior to the day of the election.

4. Any employer or person authorized to grant the leave of absence provided for in subsection 1, who denies any registered voter any right granted under this section, or who otherwise violates the provisions of this section, is guilty of a misdemeanor.”

NAC 284.586 Civil leave with pay to vote. (NRS 284.065, 284.155, 284.345, 293.463)
Civil leave with pay must be granted to allow an employee time off to vote subject to the conditions established in NRS 293.463. If an employee determines he will need time off to vote, he must submit a request for civil leave with pay to the person authorized to grant such leave before the day of the election.

[Personnel Div., Rule VII § E subsec. 7, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.147 states, “Leave of absence for duty as American National Red Cross disaster technician. Any public officer or employee of the State or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is classified by the American National Red Cross as a disaster technician must be relieved from his duties, upon the request of the American National Red Cross and the approval of his employer, to assist the American National Red Cross during an emergency or disaster described in NRS 414.020 which occurs in this state or California, Oregon, Idaho, Utah or Arizona, without loss of his regular compensation for a period of not more than 15 working days in any calendar year. No such absence may be a part of the annual vacation of the public officer or employee which is provided for by law.”

NRS 284.357 states, “Deduction from salary for service during working hours as volunteer firefighter, volunteer medical technician, volunteer reserve member of police department or sheriff's office or volunteer ambulance driver or attendant prohibited.

1. All employees, whether in the classified or in the unclassified service of the State of Nevada, must be paid their salaries as fixed by law without diminution on account of any time spent away from state employment while acting as:

(a) Volunteer firefighter of any regular organized and recognized fire department in the protection of life or property;

- (b) Volunteer emergency medical technicians certified pursuant to chapter 450B of NRS;
 - (c) Volunteer reserve members of a police department or a sheriff's office; or
 - (d) Volunteer ambulance drivers or attendants,
- during working hours or fractions thereof which should otherwise have been devoted to state employment.
2. As used in this section, "volunteer ambulance driver or attendant" means a person who is a driver of or attendant on an ambulance owned or operated by:
- (a) A nonprofit organization that provides volunteer ambulance service in any county, city or town in this state; or
 - (b) A political subdivision of this state."

NAC 284.587 Civil leave with pay for certain volunteers or when absence is necessary to meet disaster or emergency. (NRS 284.065, 284.155, 284.345) Civil leave with pay must be granted to an employee who meets the requirements of NRS 284.357, and may also be granted by the appointing authority to an employee whose absence from the job is necessary to meet a disaster or emergency.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A by R146-01, 1-18-2002)

NRS 284.345 states in part, "Regulations for attendance and leaves of absence;
1. the Commission shall adopt regulations for attendance and leave with or without pay or reduced pay in the various classes of positions in the public service."

NAC 284.588 Civil leave with reduced pay when performing certain service in time of war or emergency. (NRS 284.065, 284.155, 284.175, 284.345) An employee in the public service who performs active military service in the Armed Forces of the United States or any other category of persons designated by the President of the United States or the Governor of this State, including, without limitation, the Commissioned Corps of the Public Health Service, in time of war or emergency, is entitled to civil leave with reduced pay pursuant to this section for the period of such service. The pay that such an employee is entitled to receive pursuant to this section is the difference between the pay he would have otherwise received as a state employee and his pay for active military service. If his pay for active military service is greater than the pay he would have otherwise received as a state employee, the employee will not receive any additional pay pursuant to this section while he is in active military service.

(Added to NAC by Dep't of Personnel by R146-01, 1-18-2002, eff. 2-4-2002)

NAC 284.589 Administrative leave with pay. (NRS 284.065, 284.155, 284.345)
1. An appointing authority may grant administrative leave with pay to an employee:
(a) To relieve the employee of his duties during the active investigation of a suspected criminal violation or the investigation of alleged wrongdoing;
(b) For up to 30 days when the appointing authority initiates the leave to obtain the results of an examination concerning the ability of the employee to perform the essential functions of his position;
(c) For up to 30 days to remove the employee from the workplace when he has committed or threatened to commit an act of violence;
(d) For up to 2 hours to donate blood; or
(e) To relieve the employee of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
2. The appointing authority, upon approval of the Risk Management Division of the Department of Administration, may extend administrative leave with pay granted to an employee for a purpose set forth in paragraph (b) or (c) of subsection 1.

3. Except as otherwise provided in subsection 4, an appointing authority or the Department of Personnel may grant administrative leave with pay to an employee for any of the following purposes:

(a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the State but which do not require him to participate or attend in his official capacity as a state employee.

(b) Closure of the employee's office or work site caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.

(c) His appearance as an aggrieved employee or a witness at a hearing of the Committee.

(d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the Department of Personnel.

(e) His appearance to provide testimony at a meeting of the Commission.

4. An appointing authority or the Department of Personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 3 if:

(a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;

(b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and

(c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.

5. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:

(a) The initial appointment and one follow-up appointment if the employee receives counseling through an employee assistance program.

(b) His attendance at a health fair which has been authorized by the Board of the Public Employees' Benefits Program.

(c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.

(d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.

(e) Up to 8 hours for preparation for hearings regarding his involuntary transfer.

(Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99; R058-01, 9-6-2001; A by Personnel Comm'n by R038-03, 10-30-2003; R183-03, 1-27-2004; R145-05, 12-29-2005; R141-07, 1-30-2008)

NRS 281.1275 states in part, "Reduction in salary of certain public officers and employees for part-day absence from work prohibited; accounting for part-day absence; exception.

1. Except as permitted by the federal Family and Medical Leave Act of 1993, the salary of a public officer or employee of the state or any agency thereof, or of a political subdivision or any agency thereof, who is not entitled pursuant to federal or state law, local ordinance, or policy or contract of employment to earn overtime at the rate of time and one-half, must not be reduced for an absence from work for part of a day."

NAC 284.5895 Accounting for absences of exempt classified and unclassified employees. (NRS 284.065, 284.155, 284.345)

1. An absence of an exempt classified employee or exempt unclassified employee for a full workday shall be deemed to be an absence for a period equal to his regularly scheduled hours of employment on that workday.

2. Except when an absence for part of a workday is authorized for family and medical leave, an exempt classified employee or exempt unclassified employee must only account for an absence of one or more full workdays by the use of leave appropriate to the absence and is not required to account for any absence for part of a workday.

3. An exempt classified employee or exempt unclassified employee must not account for an absence for a full workday by the use of a combination of accrued sick leave and accrued annual leave unless:

(a) He is on family and medical leave; or

(b) He has been approved for catastrophic leave and the catastrophic leave is used as a supplement for the remaining sick and annual leave.

4. If an exempt classified employee or exempt unclassified employee does not have accrued leave appropriate to the absence in an amount sufficient to account for an authorized absence, the employee must be placed on leave of absence without pay for that workday unless he is approved to use catastrophic leave.

(Added to NAC by Dep't of Personnel, eff. 3-23-94; A 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NRS 281.145 states. "Leave of absence for military duty. Any public officer or employee of the state or any agency thereof, or of a political subdivision or an agency of a political subdivision, who is an active member of the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Air Force Reserve, or the Nevada National Guard must be relieved from his duties, upon his request, to serve under orders without loss of his regular compensation for a period of not more than 15 working days in any 1 calendar year. No such absence may be a part of the employee's annual vacation provided for by law."

NRS 284.359 states, "Military leave of absence; reinstatement. A permanent or probationary employee who performs active military service under the provisions of any national military service or training act, or who voluntarily serves in the Armed Forces of the United States in time of war, or in such types of service as the Commission by regulation may prescribe, is, upon application, entitled to leave of absence without pay for the period of such service plus a period not to exceed 90 days. If within that period he applies for reinstatement, he must be reinstated to his former class of position, or to a class of position having like seniority, status and pay, or, if those positions have been abolished, to the nearest approximation thereof consistent with the circumstances."

NAC 284.594 Unauthorized and unreported absences. (NRS 284.065, 284.155, 284.175, 284.345)

1. An unauthorized and unreported absence must be considered an absence without leave and a deduction of pay must be made for the absence.

2. An **unauthorized or** unreported absence may be considered an absence without leave, and a deduction of pay may be made for the absence.

3. An employee who has an unauthorized or unreported absence may be subject to disciplinary action pursuant to **NAC 284.646 or** NAC 284.650.

4. A deduction from the pay of an exempt classified employee or exempt unclassified employee must be made in increments of a full workday.

[Personnel Div., Rule VII § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 1-26-87; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm'n by R145-05, 12-29-2005)

NAC 284.598 Breaks in continuous service. (NRS 284.065, 284.155) The following are not breaks in continuous service:

1. Military leave for active service if the person returns from leave within 90 calendar days after an honorable discharge from military service.
2. A layoff if the employee is reemployed within 1 year after the date he was laid off.
3. A seasonal layoff if the employee is reemployed within 1 year after the end of the previous seasonal appointment.
4. A separation as a result of a permanent disability arising from a work-related injury or occupational disease, if the employee is reemployed within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.

[Personnel Div., Rule VII § H, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, 8-26-83; 4-19-88; 3-1-96; A by Personnel Comm'n by R022-05, 10-31-2005; R142-05 & R145-05, 12-29-2005)

INFORMATIONAL NOTE: Certain personnel actions, such as transfers, authorized leave without pay and those separations listed above in NAC 284.598, do not constitute a break in continuous service but may result in adjustments to pay, benefits computation of seniority, and/or probationary periods as provided in this chapter.

NAC 284.612 Layoffs: Definitions. (NRS 284.065, 284.155, 284.380) For the purposes of NAC 284.612 to 284.632, inclusive:

1. "Geographical location" means:
 - (a) Clark, Lincoln, Nye and Esmeralda counties;
 - (b) Carson City, Lyon, Churchill, Storey, Douglas, Mineral and Washoe counties;
 - (c) Pershing, Humboldt, Elko, Lander, Eureka and White Pine counties; or
 - (d) Any city located outside of this State.
2. "Option" means a clearly identified subclassification mentioned in the class specification approved by the Commission.
(Added to NAC by Dep't of Personnel, eff. 8-26-83; A 10-26-84; 7-21-89; 11-16-95; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.614 Layoffs: Procedure. (NRS 284.065, 284.155, 284.380)

1. Except as otherwise provided in NAC 284.425, if it becomes necessary for a classified employee to be laid off because of a shortage of work or money, the abolition of a position, or some other material change in duties or organization:

(a) The director of the department shall determine in what geographical location, class series, class and option the reductions in staff will have the least detrimental effect on the operations of the department and shall specify layoffs accordingly. In the Department of Health and Human Services and the Nevada System of Higher Education, the administrator of a division may be designated to make these determinations with the approval of the director of the department.

(b) Within the department, geographical location, class series, class and option selected, all employees of the department who are not permanent must be separated from service before any permanent employees in the following order:

- (1) Emergency employees.
- (2) Temporary employees.
- (3) Provisional employees.
- (4) Probationary employees.

(c) If additional reductions are necessary, permanent employees must be laid off on the basis of seniority pursuant to NAC 284.632.

(d) In the department, geographical location, class series, class and option where layoffs are to take place, those employees with the least seniority must be laid off, transferred as set forth in subsection 2 or voluntarily demoted as set forth in NAC 284.618.

(e) An appointing authority may consider limiting layoffs to employees in full-time or part-time positions. Similar considerations may be given to and limitations placed on positions requiring selective certification pursuant to NAC 284.361.

2. If a permanent employee must be laid off for one of the reasons set forth in subsection 1, the appointing authority shall notify the employee that he may choose to:

- (a) Transfer within his department, class and option into the position of the employee in his department, class and option with the least seniority;
- (b) Be voluntarily demoted as set forth in NAC 284.618; or
- (c) Exercise his reemployment rights as set forth in NAC 284.630.

3. Within 3 working days after an employee has been notified of his choices pursuant to subsection 2, he must designate in writing to the appointing authority the choice he will exercise.

4. For the purposes of this section, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

5. Subsections 1 through 4 do not apply if an employee of the Department of Motor Vehicles involved in the processing and issuing of Drivers' Licenses is laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act of 2005. A permanent employee who is laid off as a result of a background investigation for the Real ID Act has all rights provided in NAC 284.630.

[Personnel Div., Rule XIII § B subsec. 1, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-28-85; 8-22-86; 7-21-89; 8-1-91; 3-27-92; 9-16-92; 11-16-95; 10-27-97; R031-98, 4-17-98; R043-99, 9-27-99; R146-01, 1-18-2002; R147-01, 1-22-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.618 Layoffs: Voluntary demotions. (NRS 284.065, 284.155, 284.175, 284.380)

1. In lieu of being laid off, a permanent employee may choose to be voluntarily demoted to a vacant position or displace an employee within the department and geographical location where employed to one of the next lower classes:

(a) Within his current class series and option; or

(b) Within the class series and option from which he was appointed to his current position during current continuous service if he cannot be demoted pursuant to paragraph (a).

➔ For the purposes of this subsection, divisions of the Department of Health and Human Services and the Nevada System of Higher Education shall be deemed to be departments.

2. No employee in a higher class may displace an employee in a lower class who has more seniority. If an employee chooses to displace another, he must displace the member of the next lower class who has the least seniority. If that member has more seniority, the displacing employee must descend further in the class series.

3. The employees displaced reestablish the layoff class.

4. An employee may choose to displace another only if he meets the minimum qualifications for the class, option and position. For the purposes of this subsection, qualifications for a position may be different from those of the class and option only when selective certification is required pursuant to subsection 2 of NAC 284.361.

5. Full-time, part-time and seasonal employees must be treated separately and can only displace like employees.

6. Displacement is always a movement to a class at a lower grade.

7. A current employee who elects to displace another employee has priority over former employees already on reemployment lists.

8. The pay of the employee who is taking a voluntary demotion cannot exceed the highest step for the class to which the employee is being demoted. If the current pay falls within the lower rate range, no reduction in pay may occur unless money is not available as certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency which is not supported from the State General Fund, as certified by the administrator of that agency.

9. Subsections 1 through 8 do not apply if an employee of the Department of Motor Vehicles involved in the processing and issuing of Drivers' Licenses is laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act of 2005.

[Personnel Div., Rule XIII § B subsec. 2, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; R146-01, 1-18-2002; A by Personnel Comm'n by R096-03, 10-30-2003; R143-05, 12-29-2005)

NAC 284.626 Layoffs: Notice. (NRS 284.065, 284.155, 284.380) All permanent employees to be laid off must be given written notice of the layoff at least 30 calendar days before the effective date of the layoff. A copy of the seniority calculations and layoff notice must be sent to the Department of Personnel. The notice must specifically list the positions and locations where the employee has a current right to displace another employee, if those positions and locations are known at the time of notification. ***If an employee of the Department of Motor Vehicles is being laid off as a result of receiving a disqualifying background investigation that is required by the Federal Real ID Act the notice must specifically state that the employee has no right to displace another employee.***

[Personnel Div., Rule XIII § B subsec. 5, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 8-1-91; A by Personnel Comm'n by R143-05, 12-29-2005)

NAC 284.630 Layoffs: Reemployment. (NRS 284.065, 284.155, 284.250, 284.380)

1. Names of permanent employees who have received a layoff notice will be placed on the statewide reemployment list for the class and option of the position involved in the layoff, in order of seniority.

2. Names of permanent employees who have received a layoff notice will also be placed on the statewide reemployment list for other classes for which they qualify at or below the grade of the class held at the time of layoff, in order of seniority but behind those identified in subsection 1.

3. The employee shall provide an employment application and a list of classes and options he is seeking for reemployment to the Department of Personnel within 30 days after his layoff date. The agency shall provide the seniority calculations to the Department of Personnel.

4. Names of permanent employees who have received a layoff notice will be integrated with names of employees who are eligible for reemployment pursuant to NAC 284.6014.

5. Part-time employees are not entitled to be reemployed in full-time positions, and full-time employees are not entitled to be reemployed in part-time positions.

6. Seniority must be projected and counted up to the layoff date, or transfer date if the provisions of subsection 4 of NAC 284.394 apply. Seniority determines ranking on all reemployment lists and will not be recalculated unless the employee is affected by a subsequent layoff.

7. Each person on the list retains reemployment eligibility for 1 year after the layoff date. Except as otherwise provided in this section, reemployment rights are exhausted when a person accepts or declines an offer of employment in the class or a comparable class with the same grade in the department and geographical location of the layoff. Any exception to this provision must be approved by the Department of Personnel. When a person accepts a position at a grade lower than that held at the time of layoff, his name will be removed from all reemployment lists that are equal to or below the grade accepted.

8. A permanent employee who has been laid off and is being reemployed in the department, class and option from which he was laid off must have his permanent status restored. A permanent employee who is reemployed in a different class or in a different department must serve a new probationary period. If the employee does not complete the probationary period, his name must be restored to the appropriate reemployment list for any remaining part of the year following the layoff date. When the right to reemployment expires, the person affected retains his right to reinstatement or reappointment pursuant to NAC 284.386 or 284.404.

[Personnel Div., Rule XIII § B subsec. 6, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-26-83; 10-26-84; 7-21-89; 8-1-91; 11-12-93; 3-1-96; A by Personnel Comm'n by R183-03, 1-27-2004; R143-05, 12-29-2005)

NAC 284.632 Layoffs: Calculation of seniority. (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:

(a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included.

(b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:

(1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in the period preceding the date of the notification of layoff equal to 12 months of full-time equivalent service;

(2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in the period preceding the date of the notification of layoff equal to 12 months of full-time equivalent service; and

(3) Any time covered by a report on performance which rated the employee below standard, excluding evaluations received within 75 calendar days before the notification of layoff.

2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:

(a) The reduction may not include:

(1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;

(2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or

(3) A military leave of absence pursuant to NRS 284.359.

(b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation.

3. For the purposes of calculating seniority for layoff, if seniority is otherwise equal, seniority must be determined in the following order:

(a) Total time within the occupational group;

(b) Total time within the department; and

(c) By lot.

4. For the purposes of calculating seniority for reemployment, if seniority is otherwise equal, seniority must be determined by lot.

5. A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of layoff. If the Commission approves the request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:

(a) Only to determine which employees will receive a layoff notice and not for the placement of those employees on the reemployment list; and

(b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 1.

(Added to NAC by Personnel Comm'n by R096-03, eff. 10-30-2003; A by R182-03, 1-27-2004; R143-05, 12-29-2005)

USE OF ALCOHOL OR DRUGS

NRS 284.406 states, “Policy concerning use of alcohol or drugs by state employees. It is the policy of this state to ensure that its employees do not:

- 1. Report for work in an impaired condition resulting from the use of alcohol or drugs;**
- 2. Consume alcohol while on duty; or**
- 3. Unlawfully possess or consume any drugs while on duty, at a work site or on state property.”**

INFORMATIONAL NOTE: Also see NRS 284.4061 through NRS 284.4068.

NAC 284.880 Definitions. (NRS 284.065, 284.155, 284.407) As used in NAC 284.880 to 284.894, inclusive, unless the context otherwise requires:

1. “Employee” has the meaning ascribed to it in subsection 1 of NRS 284.4061.
2. “Screening test” has the meaning ascribed to it in subsection 2 of NRS 284.4061.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91)

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with the standards and procedures established by the *United States* Department of Health and Human Services which are hereby adopted by reference. A copy of the standards and procedures is available, without charge, from the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace.

2. Alcohol by testing a person’s breath must be conducted using a breath-testing device certified in accordance with *the conforming products list of evidential breath measurement devices as outlined in the Federal Register for the National Highway Traffic Safety Administration*.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000)

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)

1. An employee must not have a concentration of alcohol in his blood or breath greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.656, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.

2. A positive result on a screening test of a person’s breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001)

NAC 284.886 Screening test for controlled substance required of applicant for position affecting public safety; exception. (NRS 284.065, 284.155, 284.407)

1. Except as otherwise provided in this section, an applicant for a position that is designated by the Personnel Commission as affecting public safety must submit to a screening test to detect the general presence of a controlled substance unless he is employed by the State in a position that is also designated as affecting public safety at the time he applies.

2. A person who has been laid off from a position affecting public safety and who is reemployed in a class affecting public safety within 1 year after the date he was laid off is not required to submit to a screening test pursuant to this section.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 3-23-94)

NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required form. (NRS 284.065, 284.155, 284.407)

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his duties safely and efficiently include, but are not limited to:

- (a) The operation of a motor vehicle by the employee in any manner that causes bodily harm;
- (b) Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;
- (c) The odor of *alcohol or other controlled substance on* the breath of the employee;
- (d) Observation of the employee consuming alcohol; or
- (e) Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source.

2. Pursuant to subsection 2 of NRS 284.4065, "substantial damage to property" includes, but is not limited to:

- (a) The operation of a motor vehicle in such a manner as to cause more than \$2,500 worth of property damage; or
- (b) The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

3. Before requiring an employee to submit to a screening test, a supervisor must complete a form provided by the Department of Personnel.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

NAC 284.890 Transportation of employee to and from location of screening test. (NRS 284.065, 284.155, 284.407) If an employee is required to submit to a screening test, the appointing authority shall provide transportation for the employee to the location of the test. After the employee submits to the screening test, the appointing authority shall provide transportation for the employee to his home.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)

NAC 284.892 Duties of employee who is referred to employee assistance program. (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, he shall provide to the appointing authority:

- (a) Evidence of his consultation with a counselor employed by an employee assistance program; and
- (b) Any recommendation of the counselor with respect to his rehabilitation,
→ within 5 working days after the date of the initial consultation.

2. The employee shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to his rehabilitation.

3. The employee shall provide to the appointing authority evidence of his completion of any rehabilitation program recommended by the counselor within 5 working days after his completion of the program.

4. An employee who fails to provide evidence of his consultation with a counselor or successful completion of a rehabilitation program is subject to disciplinary action.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

NAC 284.894 Treatment of applicant who tests positive; treatment of employee who tests positive twice within 5-year period. (NRS 284.065, 284.155, 284.407)

1. An applicant who tests positive for the use of a controlled substance must not be considered by an appointing authority for employment in any position which requires such testing until:

- (a) One year has passed from the time of the positive test; or
- (b) The applicant provides evidence that he has successfully completed a rehabilitation program for substance abuse.

2. An employee who tests positive for the use of a controlled substance or alcohol for the second time within a 5-year period is subject to disciplinary action by the appointing authority and may be terminated at the discretion of the appointing authority.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 7-1-94)

NEW. Return to work of employees who have tested positive for alcohol and/or drugs while on duty.

1. An employee who tests positive for drugs and/or alcohol while on duty, and whose offense does not result in termination pursuant to NAC 284.646 or NAC 284.650, may be required to:

(a) Provide his appointing authority with documentation from his Licensed Substance Abuse Treatment Provider or other provider of health care with training and experience in substance abuse treatment, which verifies that the employee is able to return to duty and perform the essential functions of his job; and/or

(b) Submit to and pass a return to duty drug and/or alcohol test as determined by the appointing authority.

2. The employee is responsible for the cost of any return to duty testing.

3. An employee who fails to pass a return to duty test is subject to disciplinary action up to and including termination at the discretion of the appointing authority.

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